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SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

Attorneys for Plaintiff
United States of America

'08 CV 1017 H LSP

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. $104,900.00 IN U.S. CURRENCY, $1,890.00 IN U.S. CURRENCY, Defendants.	Civil No. COMPLAINT FOR FORFEITURE

By way of complaint against the defendants, $104,900.00 IN U.S. CURRENCY (hereinafter referred to as "defendant $104,900 in currency", and $1,890.00 IN U.S. CURRENCY (hereinafter referred to as "defendant $1,890 in currency"), the United States of America alleges:

1. This Court has jurisdiction over this action by virtue of the provisions of Title 28, United States Code, Section 1355, because the acts and omissions giving rise to the instant forfeiture occurred in this district.

2. Venue is proper in this district pursuant to Title 28, United States Code, Section 1395 because the defendants were found in this district.

3. On January 28, 2008, Steve Warda Goria (hereinafter referred to as "Goria") arrived at the permanent United States Border Patrol (hereinafter referred to as "USBP") Interstate Highway 5 checkpoint near San Clemente in the Southern District of California. He was the driver of a 2005 Toyota Camry sedan bearing California license plate "5NDK805" (hereinafter referred to as "Toyota Camry sedan"). USBP Agent Barrera was wearing his USBP uniform, standing at the checkpoint, in the roadway for north-bound traffic, at the primary inspection position. Agent Barrera gestured to Goria to stop at his location. Goria initially failed to obey the agent's order, and drove approximately 5 yards north beyond the agent before coming to a stop.

A. Agent Barrera walked up the roadway to where the Toyota Camry sedan came to rest. Agent Barrera greeted Goria and inquired of his citizenship. Goria declared he was a naturalized United States citizen. Goria was accompanied by a single passenger, Charles Gilbert Couri (hereinafter referred to as "Couri"). Couri stated he was a United States citizen. As Agent Barrera stood next to the open driver side window of the Toyota Camry, he detected a strong odor emanating from inside the passenger cabin. Based upon his training and experience, Agent Barrera recognized the odor as that of marijuana. The agent directed Goria to drive the Toyota Camry sedan off the roadbed and into the nearby secondary inspection area for a more thorough evaluation.

B. In the secondary inspection area, USBP Agents Penniman and Tracy greeted Goria and Couri, and identified themselves as USBP agents. Goria granted Agent Penniman permission to search the rear trunk of the Toyota Camry sedan. Upon opening the lid, Agent Penniman noticed a piece of cloth soft-sided luggage resting on the floor of the trunk, just aft of a large audio speaker housing. Couri claimed ownership of the bag, and granted the agent permission to inspect its contents. It contained no contraband.

C. Agent Penniman then discovered a piece of cloth hard-sided carry-on luggage resting on the floor of the trunk. It was hidden just forward of the large audio speaker housing. Goria claimed ownership of the bag, and granted the agent permission to inspect its contents. Goria told the agent the bag held $80,000.00 in cash. Agent Penniman opened the bag, observed it was filled with United States currency, and immediately closed it. Goria explained that $30,000.00 of the cash belonged to him, and the remaining $50,000.00 belonged to his cousin. Goria confessed he had no documentation to prove he owned any of the cash in the bag. Goria explained further that his cousin withdrew his $50,000.00 of the cash from a bank, but was not provided with a receipt or other document memorializing the transaction. The contents of the bag was later inventoried. It contained not $80,000, but the defendant $104,900 in currency.

D. USBP Agent Villanueva directed Goria and Couri to remove all items from their pockets. Goria extracted the defendant $1,890 in currency from one of his pockets. Couri produced approximately $5,064.00 in United States currency from a front pocket. Also discovered in one of Couri's front pockets was a plastic baggie of high quality marijuana buds.

E. USBP Agent Carrillo used his USBP drug detection dog partner to conduct an inspection of the Toyota Camry sedan. The drug detection dog alerted to the front dashboard area. Based upon his training and experience, Agent Carrillo knew his USBP dog partner detected the odor of controlled substances. A search of the area resulted in the discovery and seizure of a marijuana cigarette concealed in a container near one of the visors. Agents also noted marijuana debris was scattered throughout the passenger cabin of the Toyota Camry sedan.

F. Agents of the Drug Enforcement Administration (hereinafter referred to as "DEA") were summoned to the checkpoint, and assumed responsibility for the investigation. Earlier, the USBP agents found 3 cellular telephones in the Toyota Camry sedan. Couri gave DEA Agent Jauch permission to examine the contents of his telephone. Agent Jauch discovered Couri's telephone contained a number of text messages. Based upon his training and experience as a DEA agent, Jauch recognized many of the messages were coded negotiations to buy and sell high quality marijuana. At least one of the parties communicating with the cellular telephone used an area code in a section of Northern California renowned for the production of high quality marijuana.

G. The USBP agents also found handwritten driving directions in the Toyota Camry sedan. Agent Jauch examined the directions and noted they were for travel on Interstate Highway 5 from Southern California to the section of Northern California renowned for the production of high quality marijuana.

4. The defendants $104,900 in currency and $1,890 in currency were moneys furnished or intended to be furnished in

exchange for a controlled substance, in violation of Chapter 13, Title 21, United States Code.

5. Alternatively, the defendants $104,900 in currency, and $1,890 in currency were proceeds of or proceeds traceable to an exchange for a controlled substance, in violation of Chapter 13, Title 21, United States Code.

6. Alternatively, the defendants $104,900 in currency, and $1,890 in currency were used or intended to be used to facilitate an exchange for a controlled substance, in violation of Chapter 13, Title 21, United States Code.

7. As a result of the foregoing, the defendants $104,900 in currency, and $1,890 in currency are liable to condemnation and to forfeiture to the United States for their use in accordance with Title 21, United States Code, Section 881(a)(6).

8. The defendants $104,900 in currency, and $1,890 in currency are presently deposited within the jurisdiction of this Court.

WHEREFORE, the United States prays that due process issue to enforce the forfeiture of the defendants $104,900 in currency, and $1,890 in currency, and that due notice be given to all interested parties to appear and show cause why said forfeiture should not be declared.

DATED: JUNE 5, 2008

KAREN P. HEWITT
United States Attorney

BRUCE C. SMITH
Assistant U.S. Attorney

VERIFICATION

I, Jim Rider, state and declare as follows:

1. I am a Special Agent with the Drug Enforcement Administration and am one of the case agents assigned to this investigation.

2. I have read the foregoing complaint and know its contents.

3. The facts set forth in the complaint are based upon my own knowledge or were facts furnished to me by official Government sources.

Based on this information, I believe the allegations in the complaint to be true.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge and belief.

Executed on JUNE 5, 2008

JIM RIDER, S/A
DRUG ENFORCEMENT ADMINISTRATION

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

FILED 08 JUN -6 PM 2:34 CLERK U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY: DEPUTY

I. (a) PLAINTIFFS
UNITED STATES OF AMERICA

DEFENDANTS
$40,900.00 IN U.S. CURRENCY, et al.

(b) County of Residence of First Listed Plaintiff ____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant ____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
AUSA Bruce C. Smith, Tel. (619) 557-6963, 880 Front Street, Room 6293, San Diego, CA 92101-8893

Attorneys (If Known) '08 CV 1017 H LSP
Nicholas De Pento, Tel. (619) 236-1389, 550 W. C Street, Ste. 1160, San Diego CA 92101

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- [X] 1 U.S. Government Plaintiff
- [ ] 3 Federal Question (U.S. Government Not a Party)
- [ ] 2 U.S. Government Defendant
- [ ] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- [X] 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- [X] 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
Title 21, United States Code, Section 881(a)(6)
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes [X] No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ____ DOCKET NUMBER ____

DATE: 06/06/2008
SIGNATURE OF ATTORNEY OF RECORD: [signature] AUSA BRUCE C. SMITH

FOR OFFICE USE ONLY

RECEIPT # ____ AMOUNT ____ APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____